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February 17, 2012

VIA ECF

Magistrate Judge Gabriel W. Gorenstein
United States District Court
Southern District of New York
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: Suquilanda v. Cohen & Slamowitz
Case No. : 10 CV 5868
Our File No. : 07883.00030

Dear Hon. Gorenstein:

This office represents defendant Cohen & Slamowitz, LLP in the above-referenced matter. This case was recently referred to Your Honor by Judge Castel for all discovery related matters.

Plaintiff has noticed the deposition of witnesses on behalf of Cohen & Slamowitz for February 23 and 24. Prior to and on numerous occasions after plaintiff noticed these depositions, I advised counsel that I will be on vacation during the week of February 20. I am the only attorney who has handled this matter since it was commenced. There are no other attorneys available to handle the deposition during my absence and my client has requested that I be present to defend the deposition. During countless email and telephonic conversations and during our in-person meeting with counsel, we discussed plaintiff being deposed on February 27 and the deposition on behalf of Cohen & Slamowitz being conducted on February 28.

Despite those discussions, plaintiff's counsel has refused to withdraw the deposition notices and agree to conduct the depositions just days later, on February 27 and 28.

Plaintiff has also noticed the depositions of witnesses on behalf of the other defendants MRC, Midland and Encore. Those depositions are noticed for the week of February 27. Counsel for MRC, Midland and Encore have also engaged in extensive communications with plaintiff's counsel in an effort to select dates on which the witnesses are available to be deposed. One of the noticed witnesses is located in India, while the remaining witnesses are located in California. Again, plaintiff's counsel has refused to withdraw the deposition notices and select dates on which the witnesses are available.

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We have attempted in good faith to resolve the discovery issues with plaintiff's counsel, but plaintiff's counsel has been unwilling to discuss dates for depositions other than those set forth in the deposition notices.

Finally, we respectfully request leave to file a motion for a protective order with regard to plaintiff's 30(b)(1) notice to take the deposition of Mitchell Slamowitz. The witness being offered for a deposition on behalf of Cohen & Slamowitz is most knowledgeable with regard to all information sought in plaintiff's notices.

I will be available via telephone during the week of February 20 should the Court direct the parties to participate in a conference regarding the issues raised herein.

Respectfully submitted,

LITTLETON, JOYCE, UGHETTA, PARK & KELLY LLP

A handwritten signature in black ink, appearing to read 'Wendy B. Shepps', with a long horizontal flourish extending to the right.

Wendy B. Shepps

WS/as

cc: Via ECF
Dennis Kurz, Esq.
Thomas Leghorn, Esq.